

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHADWICK MICHAEL GORETZKA,

Defendant-Appellant.

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UNPUBLISHED

May 15, 1998

No. 195646

Kent Circuit Court

LC No. 95-003108 FC

Before: Neff, P.J., and White and D. A. Teeple,\* JJ.

MEMORANDUM.

Defendant pleaded guilty to second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a), and was sentenced to five to fifteen years' imprisonment. On defendant's motion pursuant to MCR 7.211(C)(1), we remanded this case to the trial court for a hearing on defendant's motion to withdraw his plea. The trial court denied the motion. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that his plea must be set aside because it was not knowingly and voluntarily entered. MCR 6.302. We conclude that the circuit court did not abuse its discretion in denying the motion to withdraw plea where defendant admitted guilt at the plea proceeding and asserted that he pleaded guilty because he was concerned about his sentence. Defendant's claim that he was incarcerated fails because the information states "on or about April 1" and defendant does not assert he was incarcerated after April 1. As to defendant's claim of ineffective assistance, his request to withdraw his plea was raised by counsel before sentencing and was treated as a motion brought before sentencing. Further, counsel made sure that the court had received the letters explaining defendant's position. Defendant's assertions regarding his understanding are not supported by the plea transcript.

Defendant's unconditional guilty plea waives review of his claimed violation of his speedy trial rights. *People v Bordash*, 208 Mich App 1, 3; 527 NW2d 17 (1994); *People v Depifanio*, 192 Mich App 257, 257-258; 480 NW2d 616 (1991). It also waives review of his claim that the

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\* Circuit judge, sitting on the Court of Appeals by assignment.

prosecutor overcharged defendant when she initially charged defendant with two counts of first-degree criminal sexual conduct. *People v Stevens*, 130 Mich App 1, 4; 343 NW2d 219 (1983).

Defendant asserts that Offense Variable 12 was erroneously scored. Defendant did not challenge the scoring at sentencing. Further, there was an agreement regarding the guidelines range to be used for plea purposes.

Affirmed.

/s/ Janet T. Neff

/s/ Helene N. White

/s/ Donald A. Teeple